

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LONNIE JOUBERT GRIMES,

Defendant-Appellant.

UNPUBLISHED

May 26, 2009

No. 284854

Wayne Circuit Court

LC No. 07-015209-FC

Before: Fitzgerald, P.J., and Talbot and Shapiro, JJ.

PER CURIAM.

Defendant appeals by right his bench trial conviction of carjacking, MCL 750.529a.¹ We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

According to complainants Ronald and Rachel Matthews, defendant and another individual robbed them and took their automobile while they were at a drive-in window at a Detroit Coney Island restaurant at approximately 9:30 p.m. on September 15, 2007. Mr. Matthews testified that he saw defendant walk from a field toward the front of the car. According to Matthews, he had known defendant for ten or 11 years, the two had interacted regularly when defendant resided with Matthews' cousin, and Matthews had last seen defendant two days prior to this incident. Defendant wore a red bandana under his nose, "barely covering his face", a gray hooded zippered sweatshirt, and jeans. Matthews noticed another man carrying a sawed-off shotgun approach the car. This individual knocked on the passenger window with the gun, "snatched" the door open, pointed the gun at Matthews, and yelled at complainants to "give it up." Complainants began to put their hands up, when Matthews noticed that the person had begun to pull the trigger. Matthews reached out and shoved the barrel toward the windshield as the gun discharged. Matthews and the assailant struggled over the gun until Matthews released it. The other man reached into the car and took cash and a cell phone from complainants. The man began to walk away, when defendant told him to "get the car." The second assailant turned around and told complainants to get out of the car or he would kill them. Complainants complied and defendant and his companion entered the car and left the scene.

¹ Defendant was acquitted of related charges of two counts of assault with intent to rob while armed, MCL 750.89, two counts of felonious assault, MCL 750.82, and possession of a firearm during the commission of a felony, MCL 750.227b.

Defendant now argues that the identity evidence in the instant case was insufficient to support his conviction. We disagree.

We review a defendant's allegations regarding insufficiency of the evidence de novo. *People v Herndon*, 246 Mich App 371, 415; 633 NW2d 376 (2001). We view the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *Id.* However, we should not interfere with the fact-finder's role of determining the weight of the evidence or the credibility of the witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended 441 Mich 1202 (1992). Satisfactory proof of the elements of the crime can be shown by circumstantial evidence and the reasonable inferences arising therefrom. *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999). It is for the trier of fact to determine what inferences fairly can be drawn from the evidence and the weight to be accorded to those inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). All conflicts in the evidence must be resolved in favor of the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

Defendant maintains that the trial court's determination that he was involved in the carjacking was erroneous. He points to the fact that Matthews did not immediately identify him to support his claim. He also notes that he has a speech impediment, and points out that no witness testified that the masked second robber had a similar speech difficulty.

While defendant argues that "to allow this conviction to stand would be granting too much discretion to the trier of fact", our Supreme Court and this Court have consistently held that witness credibility is left to the trier of fact, who is in a better position to judge witness demeanor, etc. See *People v Lemmon*, 456 Mich 625, 646; 576 NW2d 129 (1998). The trial court did not find defendant's alibi credible. The trial court recognized that defendant evidenced a speech impediment when he testified, but found that Mr. Matthews' testimony was credible, that he had had prior contact with the defendant, and that his failure to immediately recall defendant's name was understandable under the circumstances. The trial court's finding was supported by the witnesses' testimony. We find that the identification evidence was sufficient to support the trial court's determination of guilt.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Michael J. Talbot

/s/ Douglas B. Shapiro